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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STAR INSURANCE COMPANY, a Michigan corporation,

Plaintiff,

v.

SUNWEST METALS, INC., a California corporation; THOMAS DUNLAP INSURANCE AGENCY, a Limited Liability Company; DEAN T. DUNLAP, an individual; THOMAS R. DUNLAP, an individual,

Defendants,

SUNWEST METALS, INC., a California corporation,

Counter Claimant and Third Party Plaintiff,

v.

STAR INSURANCE COMPANY, a Michigan corporation; THOMAS DUNLAP INSURANCE AGENCY, LLC, a California Limited Liability Company; DEAN T. DUNLAP, an individual; THOMAS R. DUNLAP, an individual; G.J. SULLIVAN INSURANCE CO., a California Corporation and DOES 1 through 10, inclusive,

Counter Defendants and Third Party Defendants.

Case No. SACV13-1930-DFM

**[AMENDED PROPOSED]
JUDGMENT FOLLOWING COURT
TRIAL AND POST-TRIAL
BRIEFING**

Date Action Filed: December 12, 2013
Trial Date: March 31, 2015

1 The Amended Complaint of Star Insurance Company (“Star Insurance”) (Dkt.
 2 No. 34) and the Third Party Complaint of Sunwest Metals, Inc. (“Sunwest Metals”)
 3 (Dkt. No. 8) against Thomas Dunlap Insurance Agency, LLC, Dean T. Dunlap and
 4 Thomas R. Dunlap (the “Dunlap Defendants”) were resolved by way of settlement
 5 and dismissal prior to trial. The Third Party Complaint of Sunwest Metals against
 6 G.J. Sullivan Co. Excess & Surplus Lines Brokers (“G.J. Sullivan”)¹ was resolved by
 7 way of an order dated December 29, 2014 granting summary judgment in favor of
 8 G.J. Sullivan (Dkt. No. 56). Those claims having been resolved prior to trial, the
 9 Court presided over trial of the Amended Complaint of Star Insurance against
 10 Sunwest Metals and the Counter-Complaint of Sunwest Metals against Star
 11 Insurance between March 31 and April 7, 2015. After reviewing all documentary
 12 evidence received in evidence at trial, hearing all testimony and weighing the
 13 credibility of witnesses, considering the arguments of counsel, entering Findings of
 14 Fact and Conclusions of Law (Dkt. No. 175), and considering post-trial briefing by
 15 the parties regarding offsets and prejudgment interest and ruling thereon (Dkt. Nos.
 16 176-201), the Court now issues its Final Judgment Following Court Trial and Post-
 17 Trial Briefing (“Judgment”).

18 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to
 19 the Court’s Findings of Fact and Conclusions of Law (Dkt. No. 175), the Court’s
 20 order on the parties’ motions for summary judgment (Dkt. No. 56), and the Court’s
 21 order following the parties’ post-trial briefing (Dkt. No. 201), judgment is entered as
 22 follows:

23 1. Judgment is entered in favor of G.J. Sullivan and against Sunwest
 24 Metals on Sunwest Metals’ claims against G.J. Sullivan, entitling G.J.
 25 Sullivan to:
 26 A. Costs of suit in such amount as may be allowed by a subsequent

27
 28 ¹ Erroneously sued as G. J. Sullivan Insurance Co.

Bill of Costs following the entry of this Judgment in accordance with Rule 54(d)(1) of the Federal Rules of Civil Procedure.

2. Judgment is entered in favor of Sunwest Metals and against Star Insurance on their claims against one another, entitling Sunwest Metals to:

A. Damages in the principal sum of \$977,538.29 minus an offset of \$231,998 representing a portion of the settlement amount the Dunlap Defendants paid to Sunwest Metals, for a total principal amount of \$745,540.29.

B. Prejudgment interest pursuant to California Civil Code sections 3287 and 3289(b)² as follows:

- Ten percent (10%) per annum on \$936,042.29 from December 12, 2013 through March 4, 2015, equaling \$114,633.12;
- Ten percent (10%) per annum on \$704,044.29 from March 5, 2015 through June 15, 2015, equaling \$19,674.66; and
- Ten percent (10%) per annum on \$745,540.29 from June 16, 2015 through August 31, 2015, equaling \$15,523.76.

C. Through and including August 31, 2015, the total principal and accrued interest detailed in A & B above aggregates \$890,371.83. From and after September 1, 2015 until the date of entry of judgment in this matter, interest continues to accrue on the outstanding principal amount of \$745,540.29 at the rate of \$204.26 per day.

D. Costs of suit in such amount as may be allowed by a subsequent

²⁷ ² “In diversity actions, state law determines the rate of prejudgment interest.”
²⁸ *Citicorp Real Estate, Inc. v. Smith*, 155 F.3d 1097, 1108 (9th Cir. 1998).

1 Bill of Costs following the entry of this Judgment in accordance
2 with Rule 54(d)(1) of the Federal Rules of Civil Procedure.

3 The Court retains jurisdiction to make such further orders as may be proper or
4 necessary to effectuate the provisions of this judgment.

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6 **IT IS SO ADJUDGED.**

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9 Dated: September 8, 2015

10 Hon. Douglas F. McCormick
11
12 United States Magistrate Judge



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